

Title: To provide for the conveyance of certain land to the United States, to be held in trust for the Quapaw Tribe, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Tar Creek Superfund Site Land Consolidation Act of 2012.”

SEC. 2. PURPOSE.

The purpose of this Act is to facilitate and streamline the remediation of the Tar Creek Superfund Site by providing for the consolidation of ownership interests in certain land, including tracts of surplus land purchased to relocate residents and businesses and undivided fractional interests in Indian lands, as provided herein, in title to be held by the United States in trust for the Quapaw Tribe of Indians of Oklahoma, or by such tribe subject to restriction by the United States against alienation.

SEC. 3. DEFINITIONS.

In this Act:

(1) “Covered Land” means the lands within the geographic boundaries formally designated by the LICRA Trust as the area eligible for property acquisitions, except that such lands shall not include Trust and Restricted Lands.

(2) “Indian” means any person who is a member of any Indian tribe or is eligible to become a member of any Indian tribe, or any person who has been found to meet the definition of ‘Indian’ under a provision of Federal law if the Secretary determines that using such law’s definition of Indian is consistent with the purposes of this Act.

(3) “LICRA Trust” means the Lead Impacted Communities Relocation Assistance Trust of Oklahoma established pursuant to Title 60 of the Oklahoma Statutes.

(4) “Secretary” means the Secretary of the Interior.

(5) “State” means the State of Oklahoma.

(6) “Superfund Site” means any lands designated by the U.S. Environmental Protection Agency as being included within the geographic area of the Tar Creek Superfund Site.

(7) “Tribe” means the Quapaw Tribe of Indians of Oklahoma, a federally recognized Indian tribe, also known as the Quapaw Tribe of Oklahoma (O-Gah-Pah).

(8) “Trust or Restricted Land” means land the title to which is held by the United States in trust for an Indian or an Indian tribe or lands the title to which is held by Indians or an Indian tribe subject to restrictions by the United States against alienation.

SEC. 4. CONVEYANCE OF COVERED AREA LAND TO SECRETARY.

(a) Conveyance

Subject to subsection (b), if the Trust or the Tribe offers to convey to the Secretary, without monetary consideration from the United States, all right, title, and interest of the State or the

Tribe in and to any lands, other than Trust or Restricted Lands, within the Covered Area, or any fractional interest in such lands—

(1) the Secretary shall accept the conveyance; and

(2) title to the Covered Area Land conveyed hereunder shall be held by the United States in trust for the benefit and use of the Tribe.

(b) Limitation on Conveyances Under This Section

The conveyances under subsection (a) shall only occur if the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines that the Covered Area Land conveyed is being remediated in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*).

(c) Restrictions on Use of Covered Area Land

Covered Area Land taken into trust after the date of this act under subsection (a) shall not be used for any—

(1) commercial use, excluding chat sales, commercial use relating to chat sales, and commercial uses relating to or involving site remediation and permanent management of remediated areas, and commercial uses as described or contemplated in the Record of Decision, “Operable Unit 4, Chat Piles, Other Mine and Mill Waste, and Smelter Waste, Tar Creek Superfund Site,” issued February 20, 2008;

(2) educational use, excluding educational, research, scientific and similar uses that do not involve habitation or continuous occupation over an extended;

(3) residential use;

(4) gaming, including class I gaming, class II gaming, or class III gaming, as those terms are defined in section 4 of the Indian Gaming Regulatory Act, 102 Stat. 2467, as amended [25 U.S.C. 2703], or

(5) any other purpose that involves the continuous occupancy of private or public buildings within the Covered Area Land, except for as provided for herein.

(d) Limitations on Water Well Drilling

No public water wells shall be drilled on Covered Area Land after it is taken into trust, unless such wells are constructed as follows: (i) the wells are constructed with casings that seal off any groundwater zones containing water which does not meet applicable groundwater quality standards as set forth in Oklahoma’s Water Quality Standards; and (ii) the wells are otherwise constructed to meet the minimum standards for the construction of groundwater wells, and fresh water observation wells as described in Title 785 of the Oklahoma Water Resources Board Rules at Chapter 35. Alternately, water wells could be installed if treatment is provided to meet the Maximum Contaminant Levels (MCLs) established under the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.*

(e) Permitted Uses of Covered Area Land

Covered Area Land taken into trust under subsection (a) may, without limitation, be used for—

(1) hunting and fishing, including traditional Tribal hunting and fishing;

- (2) agriculture, including traditional Tribal and subsistence agriculture;
- (3) governmental activities of the Tribe that do not involve continuous use or occupancy or habitation of public buildings;
- (4) cultural and religious activities of the Tribe and its members; and
- (5) activities relating to the permanent management of remediated areas..

(f) Exceptions to Use Restrictions

The restrictions set forth in subsection (c) shall not apply to lands owned by the Tribe as of January 1, 2011, and subsequently conveyed to the Secretary hereunder.

(g) Enforcement of Use Restrictions.

The Attorney General of the State of Oklahoma may, if necessary, seek appropriate injunctive or non-monetary relief to enforce the restrictions in subsection (b) by bringing a civil action in a court of competent jurisdiction on the state's behalf..

SEC. 5. CONVEYANCES OF RESTRICTED INDIAN LANDS

(a) Consolidation of Interests in Indian Lands Within Superfund Site

(1) At the request of an individual Indian who owns any undivided interest in a parcel of Restricted Land within the Superfund Site, the Secretary shall permit the Tribe to acquire title such interest in the name of the Tribe subject to restriction by the United States against alienation.

(2) At the request of the Tribe, the Secretary shall acquire any undivided interest in Restricted Land held by the Tribe within the Superfund Site in trust for the use and benefit of the Tribe.

(b) Procedure for Conveyances of Indian Land to the Tribe

Conveyances of Indian lands to the Tribe under subsection (a) shall be made by and through, and shall be deemed to be conveyances pursuant to, the Indian Land Consolidation Act, ___ Stat. ___, as amended [25 U.S.C. § ___]; provided, however, that the Secretary shall not have discretion to reject applications by individuals Indians or the Tribe to effect such conveyances.

(c) Acquisition of Indian Chat

Upon application by an individual Indian, the Secretary shall permit the Tribe to acquire, at either fair market value or a negotiated value, any interest in chat within the Superfund Site.

SEC. 6. ENVIRONMENTAL REVIEW

For purposes of this Act, any and all conveyances permitted hereunder shall be deemed to be categorically excluded from any further requirements under the National Environmental Policy Act and the regulations of the Secretary, and such requirements of law are hereby waived for the purposes set forth hereunder.

SEC. 7. LIMITATIONS ON LIABILITY

(a) Beginning on the date on which the Secretary completes any conveyances permitted

hereunder, if any further contamination is discovered or any remediation is required on such conveyed land, other than any remediation activities being carried out on the day before the date on which the covered land is conveyed—

(1) the contamination or remediation shall be addressed in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); and

(2) the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the conveyance of the covered land, but shall continue to be liable for any such damages for which it was liable before the date of conveyance.

(b) Natural Resources Trustee

For purposes of section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C. 9607], the Secretary shall act as trustee for natural resources on any Covered Area Land conveyed to the United States by the LICRA Trust.

(c) Notwithstanding any other provision of law, the Secretary will provide Operation and Maintenance within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended (42 U.S.C. 9601 et seq.) on the Covered Area Lands, as provided in the Record of Decision, “Operable Unit 4, Chat Piles, Other Mine and Mill Waste, and Smelter Waste, Tar Creek Superfund Site,” issued February 20, 2008, and any amendments to the Record of Decision.

(d) Tribal Member and Tribal Liability

Individual Indians and the Tribe shall not be held liable under any law for the storage, milling, processing, or sale of chat in which they hold ownership interest.